

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DANNY SAUL ROSALES,

Petitioner, No. CIV-S-03-230 JAM KJM P

vs.

THOMAS L. CAREY, et al.,

Respondents. ORDER

Petitioner is a California prisoner proceeding pro se with an application for writ of habeas corpus under 28 U.S.C. § 2254. Petitioner challenges the fact that he was denied parole in 2003.

One of the arguments made by petitioner is that the evidence upon which the denial of parole was based is not constitutionally sufficient. The California Supreme Court has recently decided In re Lawrence, 44 Cal.4th 1181 (2008) and In re Shaputis, 44 Cal.4th 1241 (2008) concerning what evidence needs to appear in the record to support a denial of parole. The United States Court of Appeals for the Ninth Circuit has also elected to rehear en banc the decision rendered in Hayward v. Marshall, 512 F.3d 536 (9th Cir. 2008). See Hayward v. Marshall, 527 F.3d 797 (9th Cir. 2008) (Case No. 06-55392) and has asked for briefing on the impact of Lawrence and Shaputis, among other things. It appears that the decision in Hayward

1 will provide further guidance to the federal courts on their role in considering insufficiency of the
2 evidence claims brought by those denied parole in California.

3 In light of the above, and in the interest of judicial economy, the court will direct
4 that this action be stayed pending the Ninth Circuit's en banc decision in Hayward. If this matter
5 is stayed, the parties need take no further action absent further direction from the court.

6 Accordingly, IT IS HEREBY ORDERED that:

7 1. This action be stayed pending the Ninth Circuit's en banc decision in Hayward
8 v. Marshall, No. 06-55392; and

9 2. The Clerk of the Court be directed to administratively close this case.

10 DATED: 10/22/2008

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12 /s/ John A. Mendez

13 UNITED STATES DISTRICT JUDGE